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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,484	07/08/2003	Alan R. Fritzberg	295.034US1	8966
21186	7590	07/27/2004	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			JONES, DAMERON LEVEST	
			ART UNIT	PAPER NUMBER

1616

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/615,484

**Applicant(s)**

FRITZBERG, ALAN R.

**Examiner**

D. L. Jones

**Art Unit**

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/28/04; 1/2/04; 11/2/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-58 and 62 is/are allowed.
- 6) ☒ Claim(s) 59 and 60 is/are rejected.
- 7) ☒ Claim(s) 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/04; 6/04; 11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

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## APPLICANT'S INVENTION

1. Applicant's invention is directed to complexes and uses thereof as set forth in independent claim 1.

## 112 REJECTIONS

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 59 and 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59: The claim as written is ambiguous because of the phrase 'bone related disease'. In particular, it is unclear what diseases Applicant is claiming to be compatible with the instant invention. Please clarify in order that one may readily ascertain what is being claimed.

Claim 60: The claim as written is ambiguous because of the phrase 'immunological disorder, a metabolic disease, an infection, an infectious disease, an inflammatory disease, a hematopoietic disorder, or a condition treatable with stem cell transplantation with or without gene therapy that utilizes bone marrow ablation'. In particular, it is unclear what specific disorders/diseases are encompassed by the phrase. Applicant is respectfully requested to clarify the claim in order that one may readily ascertain what is being claimed.

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#### **CLAIM OBJECTIONS**

4. Claim 61 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **ALLOWABLE CLAIMS**

5. Claims 1-58 and 62 are allowable over the prior art of record. In particular, the claims are distinguished over the prior art of record because the prior art neither anticipates nor renders obvious a complex or use thereof wherein the complex is as set forth in independent claim 1.

#### **COMMENTS/NOTES**

6. It should be noted that the full scope of independent claim 1 has been searched.

7. The non-initialed documents appearing on Applicant's PTO-1449 do not contain a date (i.e., year) of publication. Applicant is respectfully requested to supply the dates with the next correspondence to the Examiner.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. L. Jones  
Primary Examiner  
Art Unit 1616

July 26, 2004